



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

May 19, 1998

Ms. Joni M. Vollman  
Assistant County Attorney  
Harris County  
1001 Preston, Suite 634  
Houston, Texas 77002-1891

OR98-1235

Dear Ms. Vollman:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Texas Open Records Act. Your request was assigned ID# 114920.

The Harris County District Attorney's Office received a request for all files, records, and documents pertaining to an arrest, investigation, and indictment concerning a named individual in two cases, one of which was a capital murder case. You state that front page offense report information has been provided to the requestor.<sup>1</sup> You submitted to this office a representative sample of information that you contend is excepted from disclosure pursuant to sections 552.101, 552.108, and 552.111 of the Government Code.<sup>2</sup>

You submitted to this office as Exhibit B a copy of a Harris County Grand Jury subpoena. You assert that section 552.101 of the Government Code, in conjunction with section 20.02 of the Code of Criminal Procedure, makes this information confidential. Section 552.101 of the Government Code provides an exception to disclosure for information made confidential by other law. Section 20.02(a) of the Code of Criminal Procedure provides that a grand jury's proceedings shall be secret. In Open Records Decision No. 513 (1988), we concluded that information held by the district attorney that would reveal the grand jury's deliberations is protected from disclosure under section 20.02. We have reviewed Exhibit B and agree it is protected from disclosure.

You also submitted a representative sample of documents, labeled as Exhibit A, that

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<sup>1</sup>We note that basic information concerning the arrest also must be provided. Gov't Code § 552.108(c).

<sup>2</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision No. 499 (1988), 497 (1988). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

you contend are protected from disclosure under section 552.108(a)(3), which provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted [from disclosure] if:

...

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

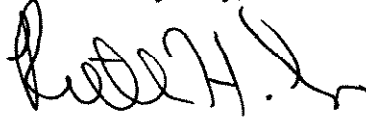
(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

You state that these documents constitute the work product of prosecutors concerning the criminal cases. We agree that most of the records in Exhibit A are protected from disclosure under section 552.108(a)(3). However, included in Exhibit A is a telephone message that is not protected under section 552.108(a)(3).

You also submitted to this office correspondence between the Fort Bend District Attorney's Office and the Harris County District Attorney's Office. You contend that this correspondence, Exhibit C, is protected from disclosure under section 552.111 of the Government Code. Section 552.111 excepts interagency and intraagency communications from disclosure only to the extent that they contain advice, opinion, or recommendation for use in the governmental body's policymaking process. Open Records Decision No. 615 (1993) at 5. Exhibit C is an inter-agency communication between two governmental entities concerning a prosecutorial matter of common interest. We agree that Exhibit C is protected from disclosure under section 552.111.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

Ref: ID# 114920

Enclosures: Submitted documents

cc: Mr. Michael B. Charlton  
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4515 Yoakum  
Houston, Texas 77006  
(w/o enclosures)